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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-77**

12 **GWEN SUE GRIMKE**  
13 4328 Colgate Way  
Livermore, CA 94550

**A C C U S A T I O N**

14 **Registered Nurse License No. 247537**  
15 **Nurse Midwife Certificate No. 202**  
16 **Nurse Midwife Furnishing No. 202**  
**Nurse Practitioner Certificate No. 16104**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
23 of Consumer Affairs.

24 2. On or about August 31, 1974, the Board of Registered Nursing issued Registered  
25 Nurse License Number 247537 to Gwen Sue Grimke (Respondent). The Registered Nurse  
26 License was in full force and effect at all times relevant to the charges brought in this Accusation  
27 and will expire on November 30, 2012, unless renewed.

28 3. On or about January 31, 2001, the Board of Registered Nursing issued Nurse Midwife

1 Certificate Number 202 to Respondent. The Nurse Midwife Certificate was in full force and  
2 effect at all times relevant to the charges brought in this Accusation and will expire on November  
3 30, 2012, unless renewed.

4 4. On or about September 20, 2002, the Board of Registered Nursing issued Nurse  
5 Midwife Furnishing Number 202 to Respondent. The Nurse Midwife Furnishing Number was in  
6 full force and effect at all times relevant to the charges brought in this Accusation and will expire  
7 on November 30, 2012, unless renewed.

8 5. On or about October 11, 2005, the Board of Registered Nursing issued Nurse  
9 Practitioner Certificate Number 16104 to Respondent. The Nurse Practitioner Certificate was in  
10 full force and effect at all times relevant to the charges brought in this Accusation and will expire  
11 on November 30, 2012, unless renewed.

#### 12 **JURISDICTION**

13 6. This Accusation is brought before the Board of Registered Nursing (Board),  
14 Department of Consumer Affairs, under the authority of the following laws. All section  
15 references are to the Business and Professions Code unless otherwise indicated.

16 7. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,  
17 that the Board may discipline any licensee, including a licensee holding a temporary or an  
18 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
19 Nursing Practice Act.

20 8. Sections 2764 and 118, subdivision (b) of the Code provide, in pertinent part, that the  
21 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
22 proceeding against the licensee or to render a decision imposing discipline on the license during  
23 the period within which the license may be renewed, restored, reissued or reinstated. Under  
24 section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time  
25 within eight years after the expiration.

#### 26 **STATUTORY PROVISION**

27 9. Section 2761 of the Code states, in pertinent part:

28 "The board may take disciplinary action against a certified or licensed nurse or deny an

1 application for a certificate or license for any of the following:

2 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

3 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing  
4 functions."

5 **REGULATORY PROVISION**

6 10. California Code of Regulations, title 16, section 1442, states:

7 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from  
8 the standard of care which, under similar circumstances, would have ordinarily been exercised by  
9 a competent registered nurse. Such an extreme departure means the repeated failure to provide  
10 nursing care as required or failure to provide care or to exercise ordinary precaution in a single  
11 situation which the nurse knew, or should have known, could have jeopardized the client's health  
12 or life."

13 **COST RECOVERY PROVISION**

14 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case.

18 **DRUG**

19 12. Vivitrol is the brand-name of an injectable, extended-release form of naltrexone, an  
20 opioid receptor antagonist used for the management of alcohol and opioid dependence.

21 **CAUSE FOR DISCIPLINE**  
22 **(Unprofessional Conduct: Gross Negligence)**  
23 **(Bus. & Prof. Code § 2761, subd. (a)(1))**

24 13. Respondent has subjected her registered nurse license, nurse midwife certificate,  
25 nurse midwife furnishing number, and nurse practitioner certificate to discipline under Code  
26 section 2761, subdivision (a)(1) (Unprofessional Conduct: Gross Negligence) because she  
27 committed gross negligence as defined in California Code of Regulations, title 16, section 1442.  
28 The circumstances are set forth below.

14. On or about October 11, 2007, while working as a nurse practitioner at a San Ramon

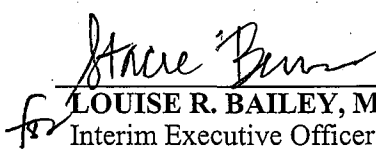
1 doctor's office, Respondent administered a medication that was contraindicated for the patient's  
2 condition. On that date, the patient, whom Respondent knew to have a long history of drug and  
3 alcohol abuse, including a history of opiate addiction, presented to Respondent to be treated for a  
4 relapse in alcohol abuse. Respondent injected the patient with Vivitrol for his alcohol abuse  
5 without determining that the patient had abstained from opiates. Vivitrol caused the patient to  
6 immediately go into precipitated opiate withdrawal, which required him to be hospitalized for  
7 three days.

8 **PRAYER**

9 THEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
10 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 247537, issued to Gwen  
12 Sue Grimke  
13 2. Revoking or suspending Nurse Midwife Certificate Number 202, issued to Gwen Sue  
14 Grimke;  
15 3. Revoking or suspending Nurse Midwife Furnishing Number 202, issued to Gwen Sue  
16 Grimke;  
17 4. Revoking or suspending Nurse Practitioner Certificate Number 16104, issued to  
18 Gwen Sue Grimke;  
19 5. Ordering Gwen Sue Grimke to pay the Board of Registered Nursing the reasonable  
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
21 Code section 125.3;  
22 6. Taking such other and further action as deemed necessary and proper.  
23

24 DATED: 7/24/2012

25   
26 LOUISE R. BAILEY, M.ED., RN  
27 Interim Executive Officer  
28 Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SF2012401617